

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROBERT E. EBERTOWSKI,
Plaintiff,

v.

RON BLOOM, Warden,
Defendant.

Case No. 20-07532 BLF (PR)

**ORDER GRANTING REQUEST
FOR VOLUNTARY DISMISSAL**

(Docket Nos. 4, 8)

On October 27, 2020, Plaintiff, proceeding *pro se*, filed a civil rights action pursuant to 42 U.S.C. § 1983.¹ Dkt. No. 1. On February 5, 2021, Plaintiff filed a “request for dismissal” which the Court construes as a notice of voluntary dismissal. Dkt. No. 8.

A plaintiff has the absolute right to dismiss his or her action by filing a notice of dismissal “at any time before service by the adverse party of an answer or of a motion for summary judgment.” Fed. R. Civ. P. 41(a)(1)(i). Said dismissal may be with or without prejudice, but unless plaintiff’s notice of dismissal states otherwise, it is deemed to be “without prejudice.” *See* Fed. R. Civ. P. 41(a)(1); *Humphreys v. United States*, 272 F.2d


¹ The matter was reassigned to this Court on November 27, 2020, after Plaintiff did not file consent to magistrate jurisdiction in the time provided. Dkt. Nos. 3, 6, 7.

1 411, 412 (9th Cir. 1959).

2 Based on the foregoing, Plaintiff's request for voluntary dismissal is **GRANTED**.
3 *Id.* This action is **DISMISSED** without prejudice. The Clerk shall terminate all pending
4 motions and close the file.

5 **IT IS SO ORDERED.**

6 Dated: February 11, 2021


BETH LABSON FREEMAN
United States District Judge

United States District Court
Northern District of California

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